

# EXHIBIT D

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

-----  
ORACLE AMERICA, INC.,                    )  
  Plaintiff, )  
  vs.    ) No. CV 10-03561  
GOOGLE, INC.,    )  
  Defendant. )  
-----

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

Videotaped Deposition of TIM LINDHOLM, taken  
at 333 Twin Dolphin Drive, Redwood Shores,  
California, commencing at 9:56 a.m., Wednesday,  
September 7, 2011, before Ashley Soevyn,  
CSR No. 12019.

PAGES 1 - 115

Page 1

## Highly Confidential - Attorneys' Eyes Only

<p>1 preserve TCK implementation revenue" --</p> <p>2 A. Uh-huh.</p> <p>3 Q. -- "defend franchise against fragmentation,</p> <p>4 which is the main threat for long-term erosion."</p> <p>5 Did you write that?</p> <p>6 A. I don't remember writing it, but it</p> <p>7 sounds -- it's in this e-mail.</p> <p>8 Q. So that was what you understood to be one</p> <p>9 of Allen's motivations in the negotiation,</p> <p>10 correct?</p> <p>11 MS. ANDERSON: Objection, form.</p> <p>12 THE WITNESS: So I don't remember writing</p> <p>13 this. And I will point out that I'm saying, "Allen</p> <p>14 presumably wants", so I think I was speculating</p> <p>15 even -- even -- even back then, as to what Allen --</p> <p>16 what Allen's considerations were.</p> <p>17 BY MR. NORTON:</p> <p>18 Q. But when you wrote an e-mail to Mr. Rubin</p> <p>19 and Mr. Minor, talking about Sun and things to keep</p> <p>20 in mind, you would have given your best</p> <p>21 understanding of Sun's perspective, wouldn't you?</p> <p>22 MR. LISI: Objection, form.</p> <p>23 MS. ANDERSON: Objection, form.</p> <p>24 THE WITNESS: I think what I would write</p> <p>25 depends on the context on which it was written. If</p> <p style="text-align: right;">Page 98</p>	<p>1 price would be high." Did you write that?</p> <p>2 A. Again, it's in this e-mail.</p> <p>3 Q. Was that your view at the time?</p> <p>4 A. I don't -- I don't actually remember what</p> <p>5 my -- I don't remember the details of my view at the</p> <p>6 time.</p> <p>7 Q. Did you try to figure out what the price</p> <p>8 would be?</p> <p>9 MS. ANDERSON: Objection, form.</p> <p>10 THE WITNESS: Definitely not. I -- I -- I</p> <p>11 don't have any background in doing that sort of</p> <p>12 thing. This is an engineer's speculating, if</p> <p>13 anything.</p> <p>14 MR. NORTON: Let's mark Exhibit 532.</p> <p>15 (Exhibit 532 marked for identification.)</p> <p>16 MS. ANDERSON: State on the record that</p> <p>17 Exhibit 532 is a document with respect to which</p> <p>18 Google has objected as being privileged on</p> <p>19 attorney-client, work product grounds. Objected to</p> <p>20 its production, but was compelled under court order</p> <p>21 to produce this document because the Court had</p> <p>22 concluded that an order of the document was not</p> <p>23 subject to privilege. This is an issue that is --</p> <p>24 that Google continues to object to and reserves all</p> <p>25 rights on appeal with respect to that ruling. And,</p> <p style="text-align: right;">Page 100</p>
<p>1 I dashed something off or if I -- and I don't recall</p> <p>2 the context in which this was written at all, so I</p> <p>3 can't really vouch for the quality of the opinions.</p> <p>4 BY MR. NORTON:</p> <p>5 Q. But these are the opinions you expressed to</p> <p>6 Mr. Rubin at the time?</p> <p>7 A. This is the e-mail that I apparently</p> <p>8 wrote.</p> <p>9 Q. All right. And in the e-mail that you</p> <p>10 wrote, you also wrote in the same paragraph, but</p> <p>11 towards the end, last sentence reads, "We do not</p> <p>12 want to turn this into a negotiation for buying the</p> <p>13 Java franchise itself with Sun, even compensating</p> <p>14 for the risk of its loss". While Sun probably --</p> <p>15 A. Which paragraph are we?</p> <p>16 Q. It's in the same paragraph the way it</p> <p>17 begins, "Allen, presumably". But I'm now reading</p> <p>18 the last two sentences to you.</p> <p>19 A. Okay, I'm going to get something to be able</p> <p>20 to track that. I write long sentences. Okay.</p> <p>21 Okay. I see that now. I see --</p> <p>22 Q. And you wrote, "We do not want to turn this</p> <p>23 into a negotiation for buying the Java franchise</p> <p>24 itself from Sun, even compensating for the risk of</p> <p>25 loss. While Sun probably will contemplate that, the</p> <p style="text-align: right;">Page 99</p>	<p>1 therefore, we understand it's being marked in this</p> <p>2 deposition pursuant to the fact that the Court had</p> <p>3 issued that order, but we want to restate our</p> <p>4 objections here, given the importance of this issue</p> <p>5 to Google.</p> <p>6 THE WITNESS: Do I get that note back?</p> <p>7 MS. ANDERSON: And while I'm -- I also want</p> <p>8 to say, I just want to make sure, this transcript</p> <p>9 needs to be designated highly confidential under the</p> <p>10 terms of the protective order, until we've had a</p> <p>11 chance to do other designations, that's it.</p> <p>12 MR. NORTON: Okay.</p> <p>13 MS. ANDERSON: Okay. That's it.</p> <p>14 BY MR. NORTON:</p> <p>15 Q. Mr. Lindholm --</p> <p>16 A. Yes.</p> <p>17 Q. -- you've seen Exhibit 532 before?</p> <p>18 A. Yes, I have.</p> <p>19 Q. It's an e-mail from you to Mr. Rubin,</p> <p>20 Mr. Grove, Mr. Lee, and Mr. -- and yourself,</p> <p>21 correct?</p> <p>22 A. Well, specifically, it's to Andy and Ben</p> <p>23 Lee, cc'd to Dan and myself.</p> <p>24 Q. And you see the body of the e-mail?</p> <p>25 A. I do see the body of the e-mail.</p> <p style="text-align: right;">Page 101</p>

<p>1 Q. You sent this e-mail on August 6, 2010; is 2 that right? 3 A. I believe that to be true. 4 Q. Would you please begin reading at, "Hi, 5 Andy." And read the entire e-mail out loud for the 6 record. 7 MS. ANDERSON: Objection. We state all of 8 our objections and preserve our right on appeal. 9 You may read the face of this e-mail. 10 THE WITNESS: Okay. Well, can I begin with 11 "Attorney work product, Google confidential", which 12 is also in the e-mail. And it goes, "Hi, Andy, this 13 is a short pre-read for the call at 12:30. In Dan's 14 earlier e-mail, he didn't give you a lot of context 15 for the visceral reaction that we got. What we have 16 actually been asked to do by Larry and Sergei, is to 17 investigate what technical alternatives exist to 18 Java, or Android and Chrome. We've been over a 19 bunch of these and think that they all suck. Think 20 they all suck. We conclude that we need to 21 negotiate a license for Java under the terms we 22 need. That said, Allen Eustace said that the threat 23 of moving off Java hit Safra Katz hard. We think 24 there's value in the negotiation to put forward a 25 most credible alternative, the goal being to get</p> <p style="text-align: right;">Page 102</p>	<p>1 were no -- there were no investigations. 2 BY MR. NORTON: 3 Q. For the record, my question was not so 4 limited. When you wrote, "We've been over a bunch 5 of these and think they all suck". Who thought 6 "they all sucked"? 7 MS. ANDERSON: Objection, form. And also 8 caution the witness and instruct him not to answer 9 to the extent responding to the question would 10 require you to reveal a separate communication with 11 Google counsel or require you to reveal work you did 12 at the direction of Google counsel, as part of the 13 investigation. 14 THE WITNESS: So -- so the we -- the going 15 over what we thought about them was entirely done on 16 the direction of Google counsel. There was no such 17 work being done independently, not being done under 18 the direction of counsel. So I don't think I can 19 answer anything there. 20 BY MR. NORTON: 21 Q. What were the specific alternatives that 22 you have investigated for Android? 23 MS. ANDERSON: Objection, form. And also 24 objection on the basis of attorney-client, 25 work-product privilege. To the extent responding to</p> <p style="text-align: right;">Page 104</p>
<p>1 better terms and price for Java. It looks to us 2 that Obj-C provides the most credible alternative in 3 this context, which should not be confused with us 4 thinking we should make the change. What we're 5 looking for from you are reasons why you hate this 6 idea, whether you think this is a nonstarter for 7 negotiation purposes and whether you think there is 8 anything we missed in our understanding of the 9 option. Tim and Dan". 10 Q. Thank you. So when you wrote, "We've been 11 asked to investigate what technical alternatives 12 exist for Java and Android and Chrome, can you tell 13 me what technical alternatives you looked at? 14 MS. ANDERSON: Objection. Instruct the 15 witness not to answer on the grounds of 16 attorney-client privilege or work product to the 17 extent responding to the question requires you to 18 reveal work that you did at the direction of counsel 19 or communications you had with counsel for Google in 20 confidence. 21 THE WITNESS: So the investigation and the 22 technical alternatives was strictly done on the 23 request of counsel, was done with the understanding 24 of the work product. So outside of -- outside of 25 those things covered by -- by that situation, there</p> <p style="text-align: right;">Page 103</p>	<p>1 this question would require you to reveal 2 communications with Google counsel in confidence or 3 work done under the direction of Google counsel, I 4 instruct you not to answer on the grounds of 5 privilege. 6 THE WITNESS: Once again, the work we -- 7 the work we did on this was entirely done under the 8 direction of counsel. There was no work done 9 outside of that or for any other purpose, so I 10 cannot answer that question either. 11 BY MR. NORTON: 12 Q. What were the technical alternatives you 13 investigated to Java for Chrome? 14 MS. ANDERSON: Objection, form. Also 15 object on the basis attorney-client, work-product 16 privilege. Instruct the witness not to answer to 17 the extent responding would require you to reveal 18 communications with Google's counsel in confidence 19 or work that you did at the direction of Google. 20 THE WITNESS: Again, the work that we did 21 relating to Chrome was entirely done under the 22 direction of counsel and was work product. We -- we 23 did no such work outside of direction of counsel on 24 alternatives to Chrome. 25 BY MR. NORTON:</p> <p style="text-align: right;">Page 105</p>